

REMARKS

Reconsideration of the rejections set forth in the Office Action is respectfully requested.

Rejection of claims under 35 USC 101

Claims 12-13 were rejected under 35 USC 101. Specifically, the Examiner indicated that a “computer readable medium” was non-statutory since this phrase could be construed to cover a transitory signal. Applicants have amended claim 12 to recite a “non-transitory” computer readable medium as was required by the Examiner. In doing so, applicants are only excluding transitory propagating signals from the scope of the claim. The term “non-transitory” computer readable medium thus includes all computer readable media, including but not limited to register memory, processor cache, RAM, and other forms of physical memory that may temporarily or permanently store information, with the sole exception being a transitory propagating signal. In view of this amendment, applicants respectfully request the Examiner to withdraw the rejection of claims 12-13 under 35 USC 101.

Rejection of claims under 35 USC 102 and 103

Claims 1-2 and 5-11 were rejected under 35 USC 103(a) as unpatentable over Rapaport (U.S. Patent Application Publication No. 2006/0161457) in view of K. Moore *An Extensible Message Format for Delivery Status Notifications*, IETF RFC 3464 (referred to herein as “Moore”). Independent claims 12-13 were rejected under 35 USC 103 as unpatentable over Rapaport in view of Walker (U.S. Patent Application Publication No. 2001/0039580). These rejections are respectfully traversed in view of the amendments to the claims and the following arguments.

Rapaport teaches a software program that monitors e-mail, telephone messages, faxes, and other forms of communication into and out of a physician’s office. (Rapaport at Paragraph 20). When a particular communication arrives, it is converted to an “interview”. The interview is classified based on the origin of the communication, the intended recipient, and the type of information contained within the communication. (Rapaport at paragraph 87). Work-flows are developed which specify how particular types of interviews are to be handled within the medical office and the system monitors the interviews to ensure that the proper personnel receive and act

on the communication. (Rapaport at paragraphs 203-205). Interviews may also be used to collect information from patients to follow up with treatment, and for numerous other purposes.

Rapaport mentions that medical images, e.g. X-rays, may be reviewed by medical personnel in connection with diagnosis and treatment of patients. (Rapaport at paragraphs 225-227). Rapaport is focused on monitoring people's interactions with these communications to ensure that important communications are not lost. The underlying communication network is assumed, and the system in Rapaport does not monitor how the network elements within the communication network are operating or whether a particular medical image is delayed while being transported across the communication network.

In the Office Action, at page 4, the Examiner acknowledged that Rapaport fails to disclose notifying an entity associated with a transaction requests as to the status of the medical image network transaction or of an estimated time of delivery of the medical image to the target, if the medical image network transaction is delayed on the network. However, the Examiner contends that Moore teaches this aspect, citing section 2.3.3.

Moore defines a Multipurpose Internet Mail Extensions (MIME) content-type for Delivery Status Notifications (DSNs). (Moore at Section 1). The intent of the MIME extensions is to inform human beings of the status of message delivery processing, as well as the reasons for any delivery problems or failures. (Moore at Section 1.1). Moore provides other reasons for the extensions in section 1.1 as well. In Section 2.3.2, Moore teaches that the MIME extensions allow for the email sender to be notified if there is a failure in delivery or a delay in delivery, in which a delay in delivery indicates that the email message has not been successfully delivered but that the Reporting MTA will continue to attempt to do so.

If applicants understand the logic behind the rejection, Rapaport teaches a system in which a physician's office can send an email over the Internet. A medical image may be attached to the email. If the mail servers on the Internet implement RFC 3464, then the physician's office would be provided with notifications if the email containing the medical image was delayed in transmission or if transmission of the email with medical image had failed to be delivered.

The medical image transport service described in this application has much broader applicability, and enables a client application to submit a request for medical image data to be transmitted between any data source and data target on the network. Applicants have amended

independent claim 1 to recite that the method includes the step of receiving requests, by a medical image transport service from a client application, for transmission of medical images between data sources and data targets. Claim 1 has further been amended to recite that the data sources include at least modalities, storage resources, and processing resources, and that the data targets include at least storage resources, processing resources, and viewing terminals. Further, independent claim 1 has been amended to recite that the client application providing a user interface to the medical image transport service through which users are able to submit the requests to the medical image transport service for transmission of medical images from the data sources to the data targets.

Comparing this claim language to an email client interfacing with an email server, it is clear that this claim language differentiates from the combination of Rapaport and Moore. Specifically, if the email client at the physician's office is the claimed "client application" and an email server on the Internet is the "medical image transport service" the email server does not receive requests to transport medical images between data sources including at least modalities, storage resources, and processing resources, to data targets which include at least storage resources, processing resources and viewing terminals. Rather, an email server would receive email from the client application to forward email to particular destinations. These are not requests to transmit data "between" data sources and data targets.

Independent claim 12 has been amended in a manner similar to claim 1. Walker does not make up the deficiencies noted above. Accordingly, in view of the amendments to the claims, applicants respectfully submit that the claims are allowable over Rapaport in view of Moore and/or Walker.

Conclusion

In view of these amendments and remarks, applicants respectfully submit that the claims pending in this application are in condition for allowance and respectfully request an action to that effect. If the Examiner believes a telephone interview would further prosecution of this application, the Examiner is respectfully requested to contact the undersigned at the number indicated below.

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If any extension of time is required or if any fees are due in connection with this filing, the Commissioner is hereby authorized to charge payment of the fees associated with this communication or credit any overpayment to Deposit Account No. 502246 (Ref: 909426-US-NP).

Respectfully Submitted

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